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GOVERNMENT GAZETTE

BOLETIM OFICIAL

GOVERNMENT OF GOA, DAMAN AND DIU

Secretariat

Law Department

Notification

L.D. 40/65

The Goa, Daman and Diu (Extension of the Code of Civil Procedure and the Arbitration Act), Act, 1965, passed by the Central Government, is hereby published for the general information.

Kant Desai, Under Secretary.

Panjim, 19th October, 1965.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 27th September, 1965/
Asvina 5, 1887 (Saka)

The following Act of Parliament received the assent of the President on the 25th September, 1965, and is hereby published for general information:—

THE GOA, DAMAN AND DIU (EXTENSION OF THE CODE OF CIVIL PROCEDURE AND THE ARBITRATION ACT) ACT, 1965

No. 30 OF 1965

[25th September, 1965]

An Act to provide for the extension of the Code of Civil Procedure, 1908, and the Arbitration Act, 1940, to the Union territory of Goa, Daman and Diu and for certain other matters.

Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. Short title and commencement. — (1) This Act may be called the Goa, Daman and Diu (Extension of the Code of Civil Procedure and the Arbitration Act) Act, 1965.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. — In this Act, unless the context otherwise requires,—

(a) "Goa, Daman and Diu" means the Union territory of Goa, Daman and Diu;

(b) "Lieutenant-Governor" means the administrator of Goa, Daman and Diu appointed by the President under article 239 of the Constitution.

3. Extension of Code of Civil Procedure and Arbitration Act, 1940, to Goa, Daman and Diu. — The Code of Civil Procedure, 1908, and the Arbitration Act, 1940, as in force in the territories to which they generally extend, are hereby extended to, and shall be in force in, Goa, Daman and Diu.

5 of 1908

10 of 1940

4. Repeal and saving. — (1) So much of any law in force in Goa, Daman and Diu as corresponds to the Code of Civil Procedure, 1908, or the Arbitration Act, 1940, or any part of the said Code or Act, as the case may be, shall stand repealed as from the coming into force of this Act in Goa, Daman and Diu:

5 of 1908

10 of 1940

Provided that the repeal shall not affect —

(a) the previous operation of any law so repealed or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or

(c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced as if this Act had not been passed:

Provided further that, subject to the preceding proviso, notifications published, declarations and rules made, places appointed, agreements filed,

awards made or filed, scales prescribed, forms framed, appointments made and powers conferred under any law so repealed shall, so far as they are consistent with the said Code or, as the case may be, the said Act have the same force and effect as if they had been respectively published, made, appointed, filed, prescribed, framed and conferred under the said Code or the said Act and by the authority empowered thereby in such behalf.

(2) In every law or notification passed or issued before the commencement of this Act in which reference is made to or to any Chapter or section or provision of any law hereby repealed, such reference shall, so far as may be practicable, be taken to be made to the said Code or, as the case may be, to the said Act or its corresponding Part, Order, section or rule.

5. Rules of construction. — (1) In the Code of Civil Procedure, 1908, and in the Arbitration Act, 1940,—

5 of 1908
10 of 1940

(a) any reference to any provision of law not in force, or to any functionary not in existence, in Goa, Daman and Diu shall be construed as a reference to the corresponding law in force, or to the corresponding functionary in existence, in that Union territory:

Provided that —

(i) if any question arises as to who that corresponding functionary is, or

(ii) if there is no such corresponding functionary,

the Lieutenant-Governor shall decide as to who such functionary will be and his decision shall be final;

(b) any reference to the State Government shall be construed as a reference to the Central Government and also as including a reference to the Lieutenant-Governor.

(2) For the purpose of facilitating the application in relation to Goa, Daman and Diu of the said Code or the said Act, any court or other authority may construe it in such manner not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority.

6. Power to remove difficulties. — If any difficulty arises in giving effect in Goa, Daman and Diu to the provisions of the Code of Civil Procedure, 1908 or the Arbitration Act, 1940, extended by this Act to that Union territory, the Central Government may, by order in the Official Gazette, make such provisions or give such directions as appear to it to be necessary for the removal of the difficulty.

5 of 1908
10 of 1940

7. Consequential provision. — As from the commencement of this Act, in the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963,—

Reg. 10 of
1963

(i) in section 8, in sub-section (1), the words "Subject to the provisions of any law for the time being in force" shall be inserted at the commencement;

(ii) in section 16, after the words "subject to the provisions of this Regulation", the words

"and until other provision is made by law" shall be inserted;

(iii) in section 17, in sub-section (1), after the word "shall", the words, "until other provision is made by law", shall be inserted.

R. C. S. SARKAR,
Secy. to the Govt. of India.

Legislature Department

LA/3341/65

The following Act passed by the Legislative Assembly of Goa, Daman and Diu received the assent of the President of India on the 26th October 1965, and is hereby published for general information.

The Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly (Amendment) Act, 1965

(No. 17 of 1965) [26th October, 1965]

An Act to amend the Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Sixteenth Year of the Republic of India as follows: —

1. Short title and commencement. — (1) This Act may be called the Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly (Amendment) Act, 1965.

(2) It shall be deemed to have come into force on the 1st day of April, 1964.

2. Amendment of section 5 of GDD Act 2 of 1965. — In section 5 of the Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly Act, 1964 (hereinafter referred to as «the principal Act»), in sub-section (1), for the words and figure «class I officer» the words «First Grade Officer» shall be substituted.

3. Amendment of section 7 of GDD Act 2 of 1965. — In section 7 of the principal Act, the word and figure «Grade I» shall be deleted.

Secretariat P. B. VENKATASUBRAMANIAN
Panjim, Secretary to the Government of Goa,
November 2, 1965 Daman and Diu.

LA/3342/65

The following Act passed by the Legislative Assembly of Goa, Daman and Diu received the assent of the President of India on the 26th October 1965 and is hereby published for general information.

The Goa, Daman and Diu Salaries and Allowances of the Speaker and Deputy Speaker (Amendment) Act, 1965

(No. 18 of 1965) [26th October, 1965]

An Act to amend the Goa, Daman and Diu Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Sixteenth Year of the Republic of India as follows:—

1. **Short title and commencement.**— (1) This Act may be called the Goa, Daman and Diu Salaries and Allowances of the Speaker and Deputy Speaker (Amendment) Act, 1965.

(2) It shall be deemed to have come into force on the 1st day of April, 1964.

2. **Amendment of section 3 of GDD Act 4 of 1965.**— In section 3 of the Goa, Daman and Diu Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964 (hereinafter referred to as «the principal Act»), after the words «provided for a Minister» the words «other than the Chief Minister» shall be inserted.

3. **Amendment of section 6 of GDD Act 4 of 1965.**— In section 6 of the principal Act,—

(a) in sub-section (1), after the words «as may be determined by rules made» the words «by Government of Goa, Daman and Diu» shall be inserted.

(b) after sub-section (2) the following sub-section shall be added, namely:—

«(3) All Rules made under sub-section (1) shall be laid before the Legislative Assembly as soon as may be after they are laid for a period of 14 days and shall be subject to such modifications as the Assembly may make during the period they are so laid.»

Secretariat P. B. VENKATASUBRAMANIAN
Panjim, Secretary to the Government of Goa,
November 2, 1965 Daman and Diu.

Home Department

ORDER

HD-50-12910/65

Notification No. G. S. R. 1501 dated the 8th October 1965 issued by the Government of India, Ministry of Home Affairs, New Delhi is hereby republished for the general information of public.

By order and in the name of the Administrator of Goa, Daman and Diu.

B. K. Mainkar, Under Secretary.
Panjim, 2nd November, 1965.

MINISTRY OF HOME AFFAIRS

Notification

New Delhi, the 8th October 1965

G. S. R. 1501. — In exercise of the powers conferred by section 6 of the Goa, Daman and Diu (Administration) Act, 1962 (1 of 1962), the Central Government hereby extends to the Union Territory of Goa, Daman and Diu the Bombay Home Guards Act, 1947 (Bombay Act 3 of 1947), as at present in force in the State of Maharashtra, subject to the following modifications namely:—

Modification

In the said Act,—

1. For the expression “State Government” wherever it occurs the expression “Lieutenant Governor” shall be substituted.

2. For the words “State of Maharashtra” wherever they occur except in the preamble, the words “Union territory of Goa, Daman and Diu” shall be substituted.

3. In section 1, for sub-section (3) the following sub-section shall be substituted namely:—

“(3) It shall come into force at once”.

4. After section 1, the following section shall be inserted, namely:—

1A. “Definitions. — In this Act, unless the context otherwise requires,—

(a) “Lieutenant Governor” means the Lieutenant Governor of the Union territory of Goa, Daman and Diu;

(b) “Official Gazette” means the official Gazette of the Union territory of Goa, Daman and Diu.

5. In section 2,—

(i) in sub-section (1),—

(a) for the words, figures and brackets “each of the areas specified in sub-section (3) of section 1 and for each of the areas notified under the said sub-section (3)” the words “the Union Territory of Goa, Daman and Diu” shall be substituted;

(b) the following proviso shall be added at the end, namely:—

“Provided that the Lieutenant Governor may, by notification in the official Gazette, divide the Union Territory of Goa, Daman and Diu into two or more areas and constitute such a volunteer body for each such area.”;

(ii) sub-section (1A) shall be omitted;

(iii) in sub-section (2), for the word “shall” the word “may” shall be substituted;

(iv) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Lieutenant Governor shall appoint a Commandant General of the Home Guards in whom shall vest the general supervision and control of the Home Guards throughout the Union territory of Goa, Daman and Diu and until a Commandant is appointed under sub-section (2), the Commandant General may also exercise the powers and perform the functions assigned to the Commandant by or under this Act.”

6. In section 3, sub-section (3) shall be omitted.

7. In section 5, in sub-section (2), for the words “Commissioner of Police, Bombay, in Greater Bombay and of the District Magistrate, elsewhere” the words “District Magistrate” shall be substituted.

8. In section 6A, in sub-section (2), for the words “Deputy Commissioner for Police in Greater Bombay and Assistant or Deputy Superintendent of Police elsewhere” the words “Deputy Superintendent of Police” shall be substituted.

9. In section 6B,—

(i) in sub-section (3), the words “or it” shall be omitted.

(ii) in sub-section (4), the words "or itself" and "or it" shall be omitted;

(iii) the following explanation shall be added at the end, namely:—

"Explanation.—Where the Commandant General, while exercising the powers of the Commandant, passes any order under sub-section (1) or sub-section (1A) —

- (a) the appeal from such order shall lie to the Lieutenant Governor;
- (b) for the purposes of sub-section (4), the power of revision in respect of such order shall vest in the Lieutenant Governor."

10. Section 9A, sub-section (1) shall be omitted.

11. Section 10 shall be omitted.

ANNEXURE

The Bombay Home Guards Act, 1947 (Bombay Act 3 of 1947) as extended to the Union territory of Goa, Daman and Diu.

Bombay Act No. III of 1947

An Act to provide for the Constitution of Home Guards.

Whereas it is expedient to provide a volunteer organization for use in emergencies and for other purposes in the State of Bombay, it is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Bombay Home Guards Act, 1947.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force at once.

1A. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Lieutenant Governor" means the Lieutenant Governor of the Union Territory of Goa, Daman and Diu;

(b) "Official Gazette" means the official Gazette of the Union Territory of Goa, Daman and Diu.

2(1). **Constitution of Home Guards and appointment of Commandant General and Commandant.**—

(1) The Lieutenant Governor shall constitute for the Union Territory of Goa, Daman and Diu a volunteer body called the Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons, the security of property and the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder:

Provided that the Lieutenant Governor may, by notification in the Official Gazette, divide the Union Territory of Goa, Daman and Diu into two or more areas and constitute such a volunteer body for each such area.

(1A) * * * * *

(2) The Lieutenant Governor may appoint a Commandant of each of the Home Guards constituted under sub-section (1).

(3) The Lieutenant Governor shall appoint a Commandant General of the Home Guards in whom shall vest the general supervision and control of the Home Guards throughout the Union Territory of Goa, Daman and Diu and until a Commandant is appointed under sub-section (2), the Commandant General may also exercise the powers and perform the functions assigned to the Commandant by or under this Act.

3. **Appointment of members.**—(1) Subject to the approval of the Commandant General, the Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve, as may from time to time be determined by the Lieutenant Governor, and may appoint any such member to any office of command in the Home Guards.

(2) Notwithstanding anything contained in sub-section (1) the Commandant General may, subject to the approval of the Lieutenant Governor, appoint any such member to any post under his immediate control.

(3) * * * * *

4. **Functions and duties of members.**—(1) The Commandant may at any time call out a member of the Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provisions of this Act and the rules made thereunder.

(2) The Commandant General may in an emergency call not out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of the Union Territory of Goa, Daman and Diu.

5. **Powers, protection and control.**—(1) A member of the Home Guards when called out under section 4 shall have the same powers, privileges and protection as an officer of police appointed under any Act for the time being in force.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purporting to be done by him in the discharge of his functions or duties as such member except with the previous sanction of the District Magistrate.

6. **Control by officers of police force.**—The members of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed by rules made under section 8.

6A. **Certificate, arms, etc., to be delivered up by person ceasing to be member.**—(1) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver up to the Commandant or to such person and at such place as the Commandant may direct, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessaries which have been furnished to him as such member.

(2) Any Magistrate and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of a Deputy Superintendent of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued

shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (v of 1898), by a police officer or if the Magistrate or the police officer issuing the warrant so directs by any other person.

(3) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant General has become the property of the person to whom the same was furnished.

6B. Punishment of members for neglect of duty, etc. — (1) The Commandant shall have the authority to suspend, reduce or dismiss or fine, to an amount not exceeding fifty rupees, any member of the Home Guards, under his control, if such member, without reasonable cause, on being called out under section 4 neglects or refuses to obey such order or to discharge his functions and duties as a member of Home Guards or to obey any lawful order or direction given to him for the performance of his functions and duties or is guilty of any breach of discipline or misconduct. The Commandant shall also have the authority to dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(1A) Notwithstanding anything contained in this Act the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such conditions as may be prescribed if, in the opinion of the Commandant, the services of such member are no longer required. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(2) When the Commandant General or the Commandant passes an order for suspending, reducing, dismissing or fining any member of the Home Guards under sub-section (1), he shall record such order or cause the same to be recorded, together with the reasons therefor and a note of the inquiry made in writing, and no such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(3) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and any such member aggrieved by an order of the Commandant General may appeal against such order to the Lieutenant Governor, within thirty days of the date on which he was served with notice of such order. The Commandant General or the Lieutenant Governor, as the case may be, may pass such order as he thinks fit.

(4) The Commandant General or the Lieutenant Governor may at any time call for and examine the record of any order passed by the Commandant or Commandant General, respectively, under sub-section (1) or (1A) for the purpose of satisfying himself as to the legality or propriety of such order passed by the Commandant or the Commandant General, as the case may be, and may pass such order with reference thereto as he thinks fit.

(5) Every order if no appeal is made therefrom as hereinbefore provided and every order passed in appeal or revision under this section shall be final.

(6) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1898 (V of 1898) for the recovery of fines imposed by a Court as if such fine were imposed by a Court.

(7) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 7 or any other law for the time being in force.

Explanation. — Where the Commandant General, while exercising the powers of the Commandant, passes any order under sub-section (1) or sub-section (1A) —

- (a) the appeal from such order shall lie to the Lieutenant Governor;
- (b) for the purposes of sub-section (4), the power of revision in respect of such order shall vest in the Lieutenant Governor.

7. Penalty. — (1) If any member of the Home Guards, on being called out under section 4, without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

(1A) If any member of the Home Guards wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (1) of section 6A, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

(2) No proceedings shall be instituted under sub-section (1) or (1A) without the previous sanction of the Commandant.

(3) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (1) or (1A).

8. Rules. — The Lieutenant Governor may make rules consistent with this Act, —

- (a) providing for the exercise by any officer of the Home Guards of the powers conferred by section 4 on the Commandant and the Commandant General;
- (b) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force;
- (c) regulating the organisation, appointment, conditions of service, function, discipline, arms accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service;
- (d) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act;
- (e) generally for giving effect to the provisions of this Act.

9. Members of Home Guards to be public servants. — Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

9A. Home Guards not disqualified from contesting elections to the local bodies. —

(2) Notwithstanding anything contained to the contrary in any other law for the time being in force, a member of the Home Guards shall not be disqualified for being chosen as, and for being, a member of any local authority merely by reason of the fact that he is a member of the Home Guards.

10. * * * *

[No. F. 7/37/65-UTL.]

A. D. PANDE, Jt. Secy.

Industries and Labour Department

ORDER

IDMOC/68/65

The following Act and the Rules made thereunder, of the Government of India, Ministry of Labour and Employment, New Delhi, are hereby re-published for the information of all concerned.

By order and in the name of the Administrator of Goa, Daman and Diu.

B. K. Chougule, Secretary, Industries and Labour Department.

Panjim, 30th September, 1965.

The Iron Ore Mines Labour Welfare Cess Act, 1961

An Act to provide for the levy and collection of a cess on iron ore for the financing of activities to promote the welfare of labour employed in the iron ore mining industry.

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows: —

1. Short title, extent and commencement. — (1) This Act may be called the Iron Ore Mines Welfare Cess Act, 1961.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Levy and collection of cess on iron ore. — With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected, as a cess for the purposes of this Act on all iron ore produced in any mine, duty of excise at such rate not exceeding fifty naye paise per metric tonne of iron ore as the Central Government may, from time to time, fix by notification in the Official Gazette.

3. Application of proceeds of cess. — An amount equivalent to the proceeds of the duty levied under this Act, reduced by the cost of collection as determined by the Central Government together with any income from investment of the said amount any other moneys received by the Central

Government for the purpose of this Act, shall, after due appropriation made by Parliament by law, be utilised by the Central Government to meet the expenditure incurred in connection with measures which in the opinion of that Government are necessary or expedient to promote the welfare of labour employed in the iron ore mining industry; and in particular, —

(a) to defray the cost of measures for the benefit of labour employed in the iron ore mining industry directed towards —

- (i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities,
- (ii) the provision and improvement of water supplies and facilities for washing,
- (iii) the provision and improvement of educational facilities,
- (iv) the improvement of standards of living including housing and nutrition, the amelioration and of social conditions and the provision of recreational facilities, and
- (v) the provision of transport to and from work;

(b) to make grants to a State Government, a local authority, the owner of an iron ore mine or any other person, of money aid of any scheme approved by the Central Government for any purpose connected with the welfare of labour employed in the iron ore mining industry;

(c) to pay annually grants-in-aid to such of the owners of iron ore mines as provide to the satisfaction of the Central Government welfare facilities of the prescribed standard for the benefit of labour employed in their mines, so, however that the amount payable as grant-in-aid to the owner of an iron ore mine shall not exceed —

- (i) the amount spent by the owner of the mine in the provision of welfare facilities, as determined by the Central Government or any person specified by it in this behalf, or
- (ii) such amount as may be prescribed by rules made under this Act;

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any welfare facilities provided by the owner of an iron ore mine where the amount spent thereon determined as aforesaid is less than the amount prescribed by rules made in this behalf;

(d) to meet the allowances, if any, of members of the Advisory Committees constituted under section 4, and the salaries and allowances, if any, of persons appointed under section 5.

4. Advisory Committees. — (1) The Central Government may constitute as many Advisory Committees as it thinks fit, but not exceeding one for each of the principal iron ore producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the amount of cess or of any other moneys referred to in section 3.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall

be chosen in such manner as may be prescribed by rules made under this Act.

Provided that each Advisory Committee shall include an equal number of members representing Government, the owners of iron ore mines and workmen employed in the iron ore mining industry and that at least one member of each such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Advisory Committees.

5. Appointment and powers of the staff. — (1) The Central Government may appoint Inspectors, Welfare Administrators and such other officers and staff as it thinks necessary for the purposes of this Act.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) Any Inspector or Welfare Administrator may, —

- (a) with such assistance, if any, as he thinks fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act, and
- (b) do within such place anything necessary for the proper discharge of his duties.

6. Power of Central Government to exempt. — Notwithstanding anything hereinbefore contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of labour employed in the iron ore mining industry, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not apply, or shall apply to such State or part subject to such exceptions and modifications as may be specified in the notification.

7. Annual report of activities financed under the Act. — The Central Government shall, as soon as may be, after the end of each financial year cause to be published in the Official Gazette a report giving an account of its activities financed under this Act during the previous financial year, together with a statement of accounts.

8. Power to make rules. — (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for —

- (a) the assessment and collection of a cess levied under this Act;
- (b) the determination of the cost of collection of the cess;
- (c) the manner in which the amount of the cess and other moneys, if any, may be applied on the measures specified in section 3;
- (d) the conditions governing the grant of money under clause (b) of section 3;

(e) the standard of welfare facilities to be provided by owners of iron ore mines for the purposes of clause (c) of section 3 and the amounts referred to in sub-clause (ii) and proviso of that clause;

(f) the composition of the Advisory Committees constituted under section 4, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business;

(g) the recruitment, conditions of service and the duties of all persons appointed under section 5;

(h) the furnishing by owners, agents or managers of iron ore mines, of statistical and other information.

(3) In making any rule under this section, the Central Government may direct that a breach thereof shall be punishable with fine.

(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

MINISTRY OF LABOUR AND EMPLOYMENT

Notification

New Delhi, the 20th September, 1963

G. S. R. 1534. — In exercise of the powers conferred by sub-section (1) of section 8 of the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961), the Central Government hereby makes the following rules, the same having been previously published as required by the said section, namely: —

CHAPTER I

General

1. Short title and commencement. — (1) These rules may be called the Iron Ore Mines Labour Welfare Cess Rules, 1963.

(2) They shall come into force from 1st October, 1963.

2. Definitions. — In these rules, unless the context otherwise requires, —

(1) «the Act» means the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961);

(2) «Advisory Committee» means a Committee constituted under section 4 of the Act;

(3) «Chairman» means the Chairman of an Advisory Committee;

(4) «Commissioner» means an Iron Ore Mines Cess Commissioner referred to in rule 31;

(5) «Form» means a form appended to these Rules;

(6) «Fund» means the Iron Ore Mines Labour Welfare Fund;

(7) «member» means a member of an Advisory Committee;

(8) «month» means the period from the first day of any month reckoned according to the British Calendar to the last day of the same month;

(9) «owner» in relation to an iron ore mines include a lessee, or mortgagee in possession of such mine and any partner, managing director, agent, manager or any other person authorized to represent such mine in its transactions;

(10) «treasury» means any Government treasury or sub-treasury.

CHAPTER II

Advisory Committees and Sub-Committees

3. Composition. — (1) There shall be one Advisory Committee for the States of Andhra Pradesh and Mysore, consisting of the following members, namely:—

- (i) An officer recommended by the Government of Mysore, who shall be the Chairman;
- (ii) An officer of the Central Government who shall be the Vice-Chairman;
- (iii) An officer recommended by the Government of Andhra Pradesh;
- (iv) A member of the Legislative Assembly of the State of Mysore appointed by the Central Government in consultation with the Government of that State;
- (v) Three persons including one from Andhra Pradesh, appointed by the Central Government, to represent the interests of the iron ore mine owners of the States of Mysore and Andhra Pradesh;
- (vi) Three persons, including one from Andhra Pradesh, appointed by the Central Government, to represent the interests of the workers employed in the iron ore mining industry in the States of Mysore and Andhra Pradesh;
- (vii) A woman appointed by the Central Government, if no woman has been appointed under clause (vi).

(2) The Advisory Committee for the State of Bihar shall consist of the following members, namely:—

- (i) An officer recommended by the State Government who shall be the Chairman;
- (ii) An officer of the Central Government who shall be the Vice-Chairman;
- (iii) A Member of the Legislative Assembly of the State of Bihar appointed by the Central Government in consultation with the Government of that State;
- (iv) Two persons, appointed by the Central Government, to represent the interests of the iron ore mine owners of the State;
- (v) Two persons, appointed by the Central Government to represent the interests, of the workers employed in the iron ore mining industry in the State;

(vi) A woman appointed by the Central Government, if no woman has been appointed under clause (v).

(3) There shall be one Advisory Committee for the States of Madhya Pradesh and Maharashtra, consisting of the following members namely:—

- (i) An officer recommended by the Government of Madhya Pradesh who shall be the Chairman;
- (ii) An officer of the Central Government who shall be the Vice-Chairman;
- (iii) An officer recommended by the Government of Maharashtra;
- (iv) A Member of Legislative Assembly of the State of Madhya Pradesh appointed by the Central Government in consultation with the Government of that State;
- (v) Three persons, including one from Maharashtra, appointed by the Central Government, to represent the interests of the iron ore mine owners of the States of Madhya Pradesh and Maharashtra;
- (vi) Three persons, including one from Maharashtra, appointed by the Central Government, to represent the interests of the workers, employed in the iron ore mining industry in the States of Madhya Pradesh and Maharashtra;
- (vii) A woman appointed by the Central Government, if no woman has been appointed under clause (vi).

4. Term of Office. — (1) A member shall, unless he resigns his office or dies at an earlier date, hold office for a period of three years from the date of publication of the notification appointing him a member of the Advisory Committee and shall be eligible for reappointment:

Provided that an outgoing member may continue in office until the appointment of his successor is notified in the Gazette of India.

(2) A member appointed to fill a casual vacancy shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

(3) If a member is unable to attend a meeting of the Advisory Committee, the Central Government may nominate, or the body which is represented by him may, by notice in writing signed on its behalf and by the said member, addressed to the Chairman of the Committee, depute a substitute in his place to attend that meeting. Such nominated or deputed member shall have all the rights of a member in respect of that meeting.

5. Resignation. — A non-official member may resign his office by letter addressed to the Chairman and the resignation shall take effect from the date of its acceptance or on the expiry of thirty days from the date of its receipt by the Chairman, whichever is earlier.

6. Absence from India. — (1) Before a non-official member leaves India he shall intimate to the Chairman the date of his departure from and the date of his expected return to India, and if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any such member leaves India without taking action as required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

7. **Vacation of office.**— A non-official member shall be deemed to have vacated his office—

- (a) If he becomes insolvent; or
- (b) if he is convicted of any offence which in the opinion of the Central Government involves moral turpitude; or
- (c) if he is absent from three consecutive meetings of the Advisory Committee without leave of absence from the Chairman; or
- (d) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member of the committee; or
- (e) if he ceases to represent the interest for representing which he was appointed.

8. **Power to Co-opt.**— (1) An Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-rule (1) shall exercise all the powers and functions of a member under these rules, but shall not be entitled to vote.

9. **Power to invite persons to attend meetings.**— An Advisory Committee or its Chairman may at any time and for such meeting or meetings as is considered necessary invite any person or persons to attend the meeting of the Committee. A person so invited shall exercise all the powers of a member under these rules, except that he shall not be entitled to vote on any question coming before the Committee.

10. **Remuneration to members.**— (1) Every non-official member, including a non-official member co-opted under rule 8 or invited to attend a meeting of the Advisory Committee under rule 9, shall be entitled to the following allowances for attending each meeting of the Advisory Committee or any of its Sub-Committees provided that the non-official member is not resident at the place where the meeting is held:—

(i) **Travelling Allowance**—

- (a) In respect of Journey by air Actual fares paid subject to the approval of the Government.
- (b) In respect of journey by rail Single first class fare plus an allowance for incidental expenses at such rates as may be fixed by the Central Government for its officers of the first grade from time to time, where first class accommodation is available. Where first class accommodation is not available on the particular train or railway line by which he travels, the member will have the option to travel in air-conditioned accommodation, by paying from his own pocket, the difference between the

fares for the air conditioned and the first class accommodation and where he does not exercise this option, he will be entitled to single fare, for the highest class of accommodation excluding air-conditioned accommodation, actually provided on the particular train or the railway line plus an allowance for incidental expenses at such rates as may be fixed by the Central Government for its officers of the first grade from time to time.

(c) In respect of journey by road Where the Journey is performed entirely by road, road allowance at the rates admissible to the Central Government officers of the first grade, subject to the condition that the member concerned furnishes a certificate to the effect that journey was undertaken by road to avoid loss of time which journey by rail would have entailed, provided further that if the distance travelled by road exceeds 120 kilometres in a single journey, road allowance will be payable only for the first 120 kilometres for each journey.

(ii) **Daily allowance.**— Ten rupees for each day of any meeting or meetings subject to a maximum of thirty rupees for any one calendar month.

(2) Non-Official members, who are resident at places where the meetings are held, shall be entitled only to the actual cost of conveyance hire subject to a maximum of ten rupees per day.

(3) The allowances referred to above shall be admissible on production of a certificate by the non-official members to the effect that they have not claimed or drawn travelling or daily allowance in respect of the journeys and halts from any other source.

Procedure relating to Meetings

11. **Disposal of business.**— (1) Every question which an Advisory Committee is required to take into consideration shall be considered either at a meeting or, if the Chairman so directs, by sending the necessary papers to every member for opinion:

Provided that the papers will not be sent to a member who is absent from India.

(2) When a question is referred to an Advisory Committee for opinion, any member may request that the question be considered at a meeting and thereupon the Chairman may, and if the request is made by three or more members shall, direct that it be so considered.

(3) If not less than three members of an Advisory Committee request the Chairman thereof to refer any matter to the Committee, the Chairman shall refer that matter to it accordingly.

12. Time and place of meetings. — An Advisory Committee shall meet at such places and times as may be appointed by the Chairman.

13. Notice of meetings and list of business. — (1) Notice shall be given to every member present in India of the time and place fixed for each ordinary meeting at least fifteen days before such meeting and every member shall be furnished with a list of business to be considered at the meeting:

Provided that when an emergency meeting is called by the Chairman such notice shall not be necessary.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman.

14. Presiding at meetings. — The Chairman shall preside at every meeting at which he is present and in his absence, the Vice-Chairman shall preside.

15. Quorum. — No business shall be transacted at a meeting of an Advisory Committee, whether and ordinary or emergency meeting, unless at least three members having the right to vote are present, of whom the Chairman or Vice-Chairman shall be one:

Provided that if at any meeting less than three such members attend, the Chairman may adjourn the meeting to a date not less than seven days later, informing the members present and sending notice to the other members that he proposes to dispose of the business at the adjourned meeting whether there is a quorum or not and it shall thereupon be lawful to dispose of the business at the adjourned meeting irrespective of the number of members attending it.

16. Recommendation by majority. — (1) Every question at a meeting of an Advisory Committee shall be decided by a majority of votes of the members present and voting on that question. But the minority shall in all cases have the right of requiring their dissent to be noted.

(2) Every question referred to the members for opinion shall, unless the Chairman in pursuance of sub-rule (2) of rule 11 reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority of members recording opinion within the time allowed.

(3) In the case of an equal division of votes or opinions, the Chairman shall give an additional vote or opinion.

17. Minutes of meetings. — (1) The proceedings of each meeting of an Advisory Committee shall be circulated to all members present in India and thereafter recorded in a minute book, which shall be kept for permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman or Vice-Chairman, as the case may be.

18. Headquarters of an Advisory Committee. — The headquarters of an Advisory Committee shall be

at such place or places as may be fixed by the Central Government.

19. Finance Sub-Committee. — (1) An Advisory Committee shall elect from among its members two persons of whom one shall be a person representing iron ore mine owners and the other representing iron ore mine workers, to constitute a Finance Sub-Committee of which the Vice-Chairman of that Advisory Committee shall be an additional member and president.

(2) An Advisory Committee may at any time co-opt a person or persons to the Finance Sub-Committee and any person so co-opted shall exercise all the powers and functions of a member of such Sub-Committee, but shall not be entitled to vote and shall not solely by reason of being so co-opted be a member of that Advisory Committee.

(3) Notice of every meeting of the Finance Sub-Committee shall be sent to the Chairman of the Advisory Committee, who may attend such meeting if he so desires, and if he does so attend, he shall, notwithstanding anything in sub-rule (1), preside and shall be entitled to vote.

20. Duties of the Finance Sub-Committee. — The duties of the Finance Sub-Committee shall be to frame schemes of expenditure, to advise on the budget drawn up by the executive of the Advisory Committee and on the accounts of the Advisory Committee and also in regard to all expenditure and to consider all schemes referred to in proviso (ii) to rule 25.

21. Other Sub-Committees. — An Advisory Committee may, as and when considered necessary, constitute from among its members a Sub-Committee for considering and reporting on such matters as may be specifically assigned to it.

22. Meetings of Sub-Committees. — The meetings and proceedings of the Finance Sub-Committee and any other Sub-Committee which may be constituted under rule 21 shall be governed by the provisions herein contained for regulating the meetings and proceedings of an Advisory Committee in so far as the same are applicable.

Powers of Advisory Committees

23. Executive. — (1) The Chairman, the Vice-Chairman and the Secretary of an Advisory Committee shall be the executive officers of such Committee and exercise the executive functions of the Advisory Committee on its behalf.

(2) The Secretary shall carry out routine duties and shall exercise such powers and discharge such duties of the Chairman as the Chairman may, with the approval of the Central Government, delegate to him.

24. Staff. — (1) Subject to the provision in the budget and the provisions of rule 25, the Chairman of each Advisory Committee may create and fill technical and other posts to assist him in carrying out his duties, may fix the scale of establishment and the salaries and allowances and determine the other conditions of service of officers and staff employed by him including the security to be taken from them:

Provided that (i) the salaries and allowances of the staff appointed by the Chairman under this rule shall be in accordance with the scales sanctioned by the Central Government for similar post, and (ii) the creation of a post with a maximum salary exceeding Rs. 500/- per month shall require the previous sanction of the Central Government.

(2) The Chairman of an Advisory Committee may authorize the staff to give assistance to any member of that committee or of a sub-committee of that committee or to any other authority exercising executive or advisory functions in connection with the Act.

25. Schemes of expenditure. — (1) The sanction of the Central Government to the budget shall, if no specific mention is made to the contrary, be deemed to include sanction to expenditure on all schemes included in the budget.

(2) The Chairman shall have power, subject to the provision in the sanctioned budget, to incur expenditure on administrative staff and welfare schemes:

Provided (i) that he shall have no power to sanction any scheme, not included in the budget, if it involves expenditure exceeding Rs. 20,000 non-recurring and Rs. 2,500 recurring a year, and (ii) that any new scheme within these limits shall require the approval of the Finance Sub-Committee before any expenditure on it is incurred.

26. Contingent expenditure. — The Chairman, may, sanction, without reference to the Advisory Committee, expenditure on contingencies, supplies and services and purchase of articles required for the running of the organisation under him subject to financial provision on the sanctioned budget and to the condition that the expenditure on any single object shall not exceed Rs. 2,000 non-recurring and Rs. 400 recurring.

Powers of Advisory Committees

27. Budget. — (1) The annual budget as prepared by the executive in consultation with the Finance Sub-Committee shall be considered by the Advisory Committee concerned each year. Thereafter a copy of the budget as approved by the Advisory Committee shall be forwarded not later than the 1st day of October each year for sanction to the Central Government which may make such alterations therein as it considers necessary before according its sanction.

(2) The budget to be forwarded to the Central Government shall be accompanied by detailed self-contained notes explaining new schemes included therein.

28. Other matters to be considered by Advisory Committee. — (1) An Advisory Committee shall, besides carrying out its statutory duties, consider and advise upon any matter concerning these rules referred to it by the Central or State Government, for advice.

(2) An Advisory Committee shall also consider the budget and any matter that may be laid before it by the Chairman.

29. Committee to be informed of expenditure. — A memorandum setting forth any grant made or expenditure incurred since the last meeting shall be laid at each meeting of an Advisory Committee.

CHAPTER III

Grants and Welfare Standards

30. Grants. — (1) In each case in which a grant is made by or with the approval of the Central Government to a State Government, a local authority, the owner of an iron ore mine, or any other person, in aid of any scheme approved by the Central Government for the purposes of the Act, the Central Government may impose conditions necessary for ensuring:

- (a) that the work for which the grant is made is duly and promptly, executed and the money is actually utilised for the purpose for which it is granted;
- (b) that the date on which the grant is calculated are in accordance with facts;
- (c) that any particulars which the Central Government may from time to time require for the proper discharge of its responsibilities are promptly supplied;
- (d) that all necessary facilities for inspection are accorded to persons duly authorized by the Central Government for the purpose of clause (a) or for checking the correctness of any particulars supplied under clause (c) or for the collection of any such particulars;
- (e) that proper accounts of the money granted are kept and are submitted for audit by such persons as the Central Government may authorize in this behalf; and
- (f) that an additional statement of accounts together with a certificate of a Registered Accountant or other recognised body of auditors to the effect that the accounts are correct, is furnished by the grantee.

(2) Before making a grant to a local authority, or the owner of an iron ore mine or any other persons the Central Government shall require such local authority or owner or such person to execute a bond for the fulfilment of conditions imposed by the Central Government under sub-rule (1).

(3) It shall be the condition of every bond executed under sub-rule (2) that in the event of the local authority or owner of the mine or such person violating any condition imposed under sub-rule (1) such local authority or owner or person shall be liable to pay to the Central Government such sum by way of penalty as may be specified in the bond.

CHAPTER IV

Assessment and Recovery

31. Assessing and Collecting Authority. — Any officer (including the Chairman of an Advisory Committee) may be specified by the Central Government, by notification in the Official Gazette, to be an Iron Ore Mines Cess Commissioner who shall be responsible for the assessment and collection of the cess levied under the Act in such areas as may be specified in that notification.

32. Liability for payment of duty of excise. — The duty of excise as fixed under section 2 of the Act on iron ore produced shall be recovered from the owner of the mine concerned and he shall be liable to make payment thereof in the manner prescribed in these rules.

33. Maintenance of register of production and submission of returns. — (1) Every owner of an iron ore mine shall maintain in Form «A» a register of production of iron ore and shall record therein datewise the production during the month. At the close of each month the entries made against each date in the register shall be totalled and the total production of the month shall be entered therein. The amount of duty of excise payable on the total production at the rate, as the Central Government may, from to time, fix by notification in the Official Gazette, shall be worked out and recorded in the register itself.

Explanation. — In calculating the duty of excise payable on the production of iron ore, unmarketable fines and rejects will not be included and a fraction of less than half of a metric tonne in the total production of the month shall be ignored and a fraction of half or more than half of a metric tonne shall be reckoned as one metric tonne.

(2) Every owner of an iron ore mine shall submit to the Commissioner in duplicate, a return in Form «A» for each month in accordance with the entries made in the register maintained under sub-rule (1) duly signed by him or any other person authorised by him in this behalf.

(3) A return so submitted shall reach the Commissioner not later than the last day of the month following the month to which the return pertains.

(4) Where no iron ore is produced in any month, the owner of the mine shall submit to the Commissioner within the time specified in sub-rule (3) a nil return in duplicate for that month accompanied by a certificate duly signed by the owner or any other person authorised by him in this behalf to the effect that no iron ore was produced during that month.

(5) Notwithstanding anything contained in this rule, if the Commissioner is satisfied with respect to the owner of any mine that no iron ore was produced by him during the preceding twelve months, he may by a permit in writing allow him to submit, in place of a monthly return, a consolidated return in Form «A» for such period not exceeding one year as may be specified in the permit. The consolidated return so submitted shall reach the Commissioner not later than the last day of the month immediately following the period specified in the permit.

34. Provisional assessment and payment of duty of excise. — The amount of duty of excise payable for any month and recorded in the register maintained under rule 33 shall be deemed to be a provisional assessment of the duty and shall be subject to a final assessment under rule 38.

35. Manner of payment of duty. — (1) The owner of a mine shall pay the duty of excise assessed under rule 34 into the nearest treasury not later than the last day of the month following the month for which the duty of excise is payable.

(2) The payment into the treasury shall be made by means of a chalan, the remittance being shown as creditable to the Central Government under Major Head «II-Union Excise Duties-Iron Ore».

(3) The challan shall be filled in duplicate, a copy of which shall be retained by the treasury and the other copy shall be returned to the depositor who

will transmit it to the Commissioner as proof of payment along with the monthly return prescribed in sub-rule (2) of rule 33 after entering the number, date and amount shown in the treasury receipt in the copy of the return.

36. Delay in submission of returns. — If the return of any month does not reach the Commissioner within the time prescribed by rule 33 the owner of the iron ore mine shall be punishable with fine which may extend to Rs. 500.

37. Late returns and revision of returns. — If the owner of any mine has not furnished the return within the prescribed date or having furnished it, discover an omission or wrong statement therein, he may furnish the return or revised return as the case may be, at any time before the order of final assessment is passed.

38. Final assessment of duty of excise. — (1) If the Commissioner is satisfied that the return submitted by any owner is correct and complete, he shall confirm the provisional assessment referred to in rule 34 as final and send an intimation to that effect to the owner of the mine concerned in Form «B» within three months from the date of receipt of the return.

(2) (a) If the Commissioner is not so satisfied, he may either depute an officer for the purpose of verification of the correctness and completeness of the return with reference to the books and accounts and other relevant records of the mine and its premises, or issue a notice in Form «C» on the owner of the mine concerned requiring him to attend either personally or through a duly authorised representative on the date and at the time and place to be specified in the notice.

The officer deputed by the Commissioner shall be afforded all necessary facilities at the premises of the mine for the purpose of verification as aforesaid.

(b) After verification of the return or after hearing such evidence as the owner may produce in compliance with the notice issued under clause (a) and such evidence as the Commissioner may require on specified points, the Commissioner shall as soon as possible assess the amount of duty due from the owner and such assessment shall be final.

(c) If the Commissioner is satisfied that the return submitted by the owner is correct and complete, he shall confirm the provisional assessment as final. If on the other hand, the Commissioner finds that a further sum is due from the owner he shall issue on the owner a Demand Notice in Form «G» requiring the payment of the balance due within the time specified therein.

(d) If any owner, having furnished a return for a month, fails to comply with any of the terms of the notice that may be issued on him under clause (a), the Commissioner shall, assess the amount of the duty due from him which, in his judgement, is just and proper and such assessment shall be final.

(3) If any owner does not furnish a return in Form «A» for any month by the prescribed date in the manner laid down in rules 33 and 35, the Commissioner shall, after giving the owner a reasonable opportunity of being heard by the issue of a notice in Form «D» assess the amount of duty due from him which in his opinion is just and proper. The owner shall further be punishable with fine which may extend to Rs. 500 as provided in rule 36.

(4) If upon information which has come into his possession the Commissioner is satisfied that an owner has actually produced iron ore during a month and has thereby become liable to pay duty of excise under section 2 of the Act, but has failed to furnish a return in respect of that month and also to pay the amount of provisional assessment on that basis by the last day of the month following the month in which he has produced iron ore, the Commissioner shall after giving the owner a reasonable opportunity of explaining the reason for the failure, by issue of a notice in Form «E» assess the amount of duty of excise due from him which, in his opinion, is just and proper in respect of that month of production.

(5) The Commissioner shall fix a date ordinarily not earlier than 30 days from the date of issue of a notice in Form «C» or «E» for producing such accounts and documents as he may require and for considering any objection which the owner may wish to offer.

(6) After considering any objection made by the owner and any evidence produced in support thereof, the Commissioner shall assess the amount of the duty of excise to be paid by the owner and shall record his findings and pass his final assessment order in Form «F».

(7) The amount of duty thus assessed, the date by which the amount so assessed is to be deposited (which shall not ordinarily be earlier than 30 days from the date of issue of Demand Notice) and any other particulars connected therewith shall be specified in the Demand Notice Form «G».

(8) The mode of payment into the treasury of the amount specified in Demand Notice in Form «G» shall be the same as laid down in rule 35 provided that the copy of the treasury challan intended for transmission to the Commissioner shall be forwarded to him with a covering letter quoting reference to the Demand Notice.

39. Recovery of duty of excise on iron ore which has escaped assessment. — If —

- (a) the Commissioner has reason to believe that by reason of the concealment by the owner of any particulars of production of iron ore from any mine such production has escaped the levy of duty of excise; or
- (b) notwithstanding any such concealment of particulars as is mentioned in clause (a) on the part of the owner, the Commissioner has in consequence of information in his possession, reason to believe that any production of iron ore from a mine has escaped levy of duty of excise;

the Commissioner may in cases falling under clause (a) at any time within four years and in cases falling under clause (b) at any time within two years of the end of the month the return in respect of which should have included such production of iron ore which has escaped assessment, assess the duty of excise payable thereon and all the provisions of these rules shall apply to the duty of excise so assessed as if assessment were included in the final assessment order as provided under rule 38:

Provided that the Commissioner, before exercising the powers conferred upon him under this rule, shall give the owner a reasonable opportunity of being heard.

40. Recovery of unpaid duty of excise and penalty. — (1) Any amount of duty of excise, which remains unpaid after the date specified in the Demand Notice and any amount of penalty which is imposed on an owner for violation of any of the rules framed under the Act shall be recovered as an arrear of land revenue, and shall be credited to the Central Government as provided in rule 35.

(2) The Commissioner shall (in order to recover the unpaid amount of cess and also the penalty, if not paid) apply to the Collector of the district in which the mine is situated for the recovery of the amount due from the owner of a mine.

(3) The Collector shall send a report to the Commissioner by the 10th day of each month showing the amount recovered by him as land revenue during the preceding month.

41. Review. — (1) Within 30 days from the date of issue of a Demand Notice in Form «G» any owner may submit a petition to the Commissioner asking for a review of such assessment, provided that no such petition shall be entertained unless the Commissioner is satisfied that the amount assessed has been paid by the owner into a treasury as required under rule 38.

(2) Every petition for review shall be accompanied by a memorandum setting forth clearly the principal grounds of objections against the assessment made together with a copy of the treasury challan showing that the amount assessed has been paid to Government and a certified copy of the assessment order.

(3) The Commissioner shall after verifying the fact of assessment from the records of the office, satisfy himself as to the correctness of the grounds in the petition and if he finds that a prima facie error of judgement has been made shall issue an order either reducing or annulling the assessment.

(4) If, on the other hand, the records, in his office reveal that assessment has been made correctly, the Commissioner shall, after giving the petitioner an opportunity of being heard, issue an order confirming the assessment. The order of the Commissioner shall be final.

(5) The Commissioner shall record his decision in writing.

(6) The petitioner shall be entitled to a copy of the Commissioner's order on the petition for review free of cost and it shall be furnished to him as soon as possible after the orders are passed.

(7) So much of the duty originally assessed upon and paid by the owner as is found not to be due from him as a result of review under sub-rule (1) shall be refunded to the owner concerned or adjusted in the account of the owner concerned, as the Commissioner may deem fit, on the basis of the orders on the petition for review.

(8) Any refund under sub-rule (7) shall be made in cash by drawing the amount from the treasury on an ordinary contingent bill on which shall be specified the review case, number, date of review order and the number, date and amount of treasury challan concerned.

42. Records of collection. — (1) For the proper accounting of the duty collected under these rules, the Commissioner shall maintain records to show

under rule 38 of the Iron Ore Mines Labour Welfare Cess Rules, 1963 without further reference to you.

Seal of the Commissioner.

No. ...

Date ...

Place ...

Commissioner.

Particulars of Accounts and Documents required

1. Books of accounts for the month(s) in question in general and records of production together with records in support of the figures entered therein.
2. Any other subsidiary record showing production of iron ore during the month(s).

FORM D

(See rule 38)

Notice

To,

... Mine

... Address

Whereas you have not furnished a return in Form A in respect of the month(s) of ... 19, by the prescribed date(s); You are, therefore, required to submit a return within one calendar month from the date of issue of this notice for the month(s) of ... 19, in Form A of the Iron Ore Mines Labour Welfare Cess Rules, 1963.

In the event of your failure to comply with this notice I shall proceed to assess the duty to the best of my judgement under rule 38 of the Iron Ore Mines Labour Welfare Cess Rules, 1963 and you will also further be liable to prosecution under rule 36.

Commissioner

Seal of the Commissioner.

No. ...

Date ...

Place ...

FORM E

(See rule 38)

Notice

To,

... Mine

... Address

Whereas it appears that you have produced iron ore during the month(s) of ... 19, but have failed to furnish return in Form A under Rule 33 of the Iron Ore Mines Labour Welfare Cess Rule, 1963;

You are therefore, directed to appear in person or through a duly authorised representative before ... (person) at ... (place) on ... (date) at ... (time) and to produce or cause to be produced at that time the accounts and documents specified below, lodge at that time any objection which you may wish to prefer and produce any evidence which you may wish to do in support thereof, and you will further be liable to prosecution under rule 36.

In the event of your failure to comply with this notice I shall proceed to assess the cess to the best of my judgement under rule 38 of the Iron Ore Mines Labour Welfare Cess Rules, 1963.

Commissioner

Seal of the Commissioner.

No. ...

Date ...

Place ...

Particulars of Accounts and Documents required

1. Books of accounts for the month(s) in question in general and records of production together with records in support of the figures entered therein.
2. Any other subsidiary record showing production of iron ore during the month(s).

FORM F

(See rule 38)

Order of Assessment

State in which the mine is situated ...
Assessment Case No. ... of ... 19

1. Year of assessment ... month for which assessment is made.
2. Name of mine assessed.
3. Location of mine.
4. Full postal address.
5. Account books, etc. produced, if any.
6. Rule and sub-rule under which assessment is made.
7. Total tonnes of iron ore produced as per return furnished by the mine (in tonnes).
8. Total tonnes of iron ore produced as determined on the basis of the books of account produced or to the best judgement of the Commissioner.
9. Amount of cess assessed at the rate of ... per tonne of iron ore produced on the basis of item 8 above Rs. ...

Assessment order in brief

Commissioner.

Seal of the Commissioner.

No. ...

Date ...

Place ...

Certified copies of the assessment order may be obtained from the Commissioner Office on payment to him of a fee of Rs. 2/- for each copy. The amount paid on this account shall be credited by the Commissioner to the Head «S-Deposits and Advances-Part II-Deposits not bearing interest B-Reserve Fund-Iron Ore Mines Labour Welfare Fund (ii) Miscellaneous Receipts».

FORM G

(See rule 38)

Demand Notice

To,

... (Owner/Partner/Director/Manager/Agent) of ... (Mine) at ... (Location of Mine) ... P.O. ... District ... in the State of ...

In continuation of the notice in Form C,D,E, issued to you per registered post on the ... day of ... 19, you are hereby informed that your total production of iron ore during the month(s) of ... 19, has been finally determined at ... tonne and accordingly cess amounting to Rs. ... (Rupees ...) only is payable by you.

2. You are hereby directed to pay the sum of Rs. ... (Rupees...) only as detailed below into the nearest Government Treasury on or before the ... day of ... 19, and to produce before the Commissioner a copy of the relevant Treasury Challan as proof of payment not later than the ... day of ... 19, failing which the said sum of Rs. ... (Rupees ...) only will be recoverable from you as an arrear of land revenue.

Details of assessed amount ...

1. Amount of cess payable Rs. ...
2. Deduct amount already paid by you as per Treasury Challan No. ... dated ...
3. Net amount payable Rs. ...

Commissioner

Seal of the Commissioner.

No. ...

Date ...

Place ...

Note:—Strike out the number of form and words and phrases not applicable.

(No. F. 5(1)/62-MII).

R. C. SAKSENA
Under Secretary.

GOVT. PRINTING PRESS — GOA

(Imprensa Nacional — Goa)

PRICE — Rs. 1-07 Ps.